

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GMA ACCESSORIES, INC.

Plaintiff,

Civil Action No.: 07CV3219 (LTS) (DF)

- against -

DECLARATION OF JOHN P. BOSTANY

CHARLOTTE SOLNICKI,
CHARLOTTE B, LLC,
GIRLSHOP, INC., SHOWROOM SEVEN
STUDIOS, INC., ELECTRIC WONDERLAND,
INC., SHOWROOM SEVEN INT'L,
SHOWROOM SEVEN,

Defendants.

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John P. Bostany hereby declares, under penalty of perjury pursuant to 28 U.S.C. § 1746, as follows:

1. I am attorney for Plaintiff in this proceeding and respectfully make this declaration based upon my review of the files maintained in the firm's offices.
2. This Declaration is respectfully submitted in support of Plaintiff's application for an Order pursuant to Rule 60 of the Federal Rules of Civil Procedure ("Fed.R.Civ.P.").
3. GMA Accessories, Inc. brought this trademark infringement action against several parties that manufacture and/or distribute goods that infringe upon GMA's CHARLOTTE mark. The only remaining defendants are in default. One of the alleged distributors, Showroom Seven Studios, Inc., defaulted. The Memorandum Order Granting Default Judgment Motions and Injunction dated August 29, 2007 is attached as **Exhibit A**.
4. The Charlotte Solnicki website announced that its United States showroom was called Showroom Seven, located at 498 7th Avenue – 24th Floor in New York. Copies of the Contact page from the Charlotte Solnicki website are attached as **Exhibit B**.

5. The New York State Department of State – Division of Corporations showed Showroom Seven Studios, Inc. based at this same location. A copy of the Entity Information record from the Division of Corporations is attached as **Exhibit C**.
6. GMA later learned that the same people who owned Showroom Seven Studios, Inc. were also doing business under the name Showroom Seven and Showroom Seven International.
7. Maria Caso on behalf of Showroom Seven Studios, Inc. that she “went into business” with Karen Ericson and “Jean-Marc”, operating a business called Showroom Seven Studios at 498 7th Avenue. *See* the excerpt from her deposition transcript, attached as **Exhibit D** at 8.
8. Jean-Marc Flack testified on March 18, 2008 that he operated “Showroom Seven” at the 498 7th Avenue location for approximately thirteen years along with Karen Ericson; he also testified that “Showroom Seven” sold the infringing Charlotte Solnicki goods. *See* the excerpt from his deposition transcript, attached as **Exhibit E** at 19-23.
9. On May 22, 2008, Karen Ericson testified that “Showroom Seven” was operating at the 498 7th Avenue location for approximately twelve years, and Jean-Marc Flack is the President; she went on to testify that she was also an officer. *See* the excerpt from her deposition transcript, attached as **Exhibit F**.
10. Pursuant to an order enforcing a prior subpoena, Ms. Ericson produced purchase orders and other related documents pertaining to infringing CHARLOTTE merchandise. These documents showed that “Showroom Seven” and/or “Showroom Seven International” purchased and distributed the infringing goods through and including 2007. The documents also represented that Showroom Seven and Showroom Seven International are

located at 498 7th Avenue in New York; copies of some examples of these documents are attached as **Exhibit G**.

11. These individuals had full and complete notice of these proceedings as well as the court's August 29 Order, and they never answered the Complaint or moved with respect to the Order. A copy of the Complaint was served at 498 7th Avenue on April 24, 2007. *See* **Exhibit H**. The letter to Judge Swain requesting permission to move for default judgment, the Order granting permission, and the Motion were all served at the same 498 7th Avenue – 24th Floor address. A copy of the Order granting default judgment was personally served on August 30, 2007, at 498 7th Avenue in New York; a copy of the affidavit of service is attached as **Exhibit I**. A copy of the Order was handed to Ms. Caso at her deposition on November 28, 2007. *See* **Exhibit D** at 25-26. A copy of the Order was handed to Mr. Flack at his deposition on March 18, 2008. *See* **Exhibit E** at 31.
12. Mr. Flack, Ms. Ericson, Ms. Caso and Showroom Seven Studios, Inc. were all represented by the same attorney, Karim Kamal, who was fully aware of GMA's allegations against Showroom Seven. A copy of the Third Amended Complaint naming Showroom Seven and Showroom Seven International was served at 263 11th Avenue on April 7, 2008. *See* **Exhibit J**. The service at 263 11th Avenue occurred after the owners moved their Showroom Seven business to this no location. *See* **Exhibit F** at 5. A copy of the Third Amended Complaint was handed to Ms. Ericson at her deposition on May 22, 2008. *See* **Exhibit F** at 58-59.
13. Certificates of Default were entered pursuant to Rule 55(a) against both SHOWROOM SEVEN and SHOWROOM SEVEN INT'L. *see* **Exhibits K and L**. GMA initially planned to file a separate motion for default judgment against these entities and after the

Court directed compliance with Individual Practice Rule 2C, GMA complied with this direction.

14. Upon further review, inasmuch as the Court has already issued a carefully written opinion effectively granting default judgment against these same entities it is respectfully submitted that the more economical and proper avenue was to request that these entities be added to the prior Order by way of Rule 60.

15. For the reasons contained in the accompanying memorandum of law, plaintiff respectfully requests that this court issue an Order modifying the August 29 Order to the extent of providing that the default judgment granted therein also applies against Showroom Seven, Showroom Seven International and Showroom 7 and that the Clerk be directed to issue judgment therefore on the issue of liability in this case.

Dated: New York, New York
August 8, 2008

John P. Bostany (JB 1986)